

JS 44 (Rev. 12/12)

CMR**CIVIL COVER SHEET**

2:15-CV-5745

The JS 44 civil cover sheet and information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

1. Samantha Hines; 2. Eric Hines

DEFENDANTS

The Pros Entertainment Services Inc.

(b) County of Residence of First Listed Plaintiff Prince George County MD
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant Montgomery County
(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Mark Rhoades, One Liberty Plaza, 1650 Market Street, 36th Floor,

Philadelphia, PA 19103, P. 215-496-9002

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 463 Aliens Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

17 U.S.C. § 501

Brief description of cause:

Copyright violation, invasion of privacy for unlicensed use of wedding photos in publication

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10/22/15

SIGNATURE OF ATTORNEY OF RECORD

Mark Rhoades

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

OCT 22 2015

CMR

UNITED STATES DISTRICT COURT

15**5745**

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Samantha and Eric Hines 11544 Waesche Dr Middleville MD 20721

Address of Defendant: 1800 Byberry Rd Suite 1401 Huntingdon Valley, PA 19004

Place of Accident, Incident or Transaction: Montgomery County, PA
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☐
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☐
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☐

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify) Copyright

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

- I, MARK L. RHODES, counsel of record do hereby certify:
- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
 - ☐ Relief other than monetary damages is sought

DATE: 10-22-2015

Attorney-at-Law

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10-22-15

Attorney-at-Law

Attorney I.D.#

OCT 22 2015

CMR

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Samurtha Hines and
Eric Hines
11544 Waesche Dr.
Mitchellville, MD 20721
v. The Pro's Entertainment
Services, Inc.
1506 Byberry Rd
Suite 1401
Huntingdon Valley, PA
19006

CIVIL ACTION

15 5745

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

10-22-15
Date

Mark Rhodes
Attorney-at-law

Plaintiff
Attorney for

215-496-9002

Telephone

FAX Number

rhodes@rhodesllc.com

E-Mail Address

OCT 22 2015

4400 ✓

CMR

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**SAMANTHA HINES and
ERIC HINES**
11544 Waesche Drive
Mitchellville, MD 20721,

Plaintiffs,

v.

**THE PROS ENTERTAINMENT
SERVICES, INC.**
1800 Byberry Road, Suite 1401
Huntingdon Valley, PA 19006,

Defendant.

15

5745

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Samantha Hines and Eric Hines, by and through the undersigned counsel,
hereby file this Complaint and alleges as follows:

I. INTRODUCTION

1. This action arises from Defendant's willful and knowing violations of Plaintiffs' privacy and copyrights by publishing Plaintiffs' wedding photograph on promotional brochures despite informing Samantha Hines that her photographs would remain private and would not be used for promotional purposes.

II. PARTIES

2. Plaintiff, Samantha Hines ("Mrs. Hines"), is a natural person who resides in the state of Maryland. Mrs. Hines hired Defendant to provide photography services for her wedding in or around July 2014.

3. Co-Plaintiff, Eric Hines (“Mr. Hines”), is a natural person who resides in the state of Maryland. Mr. Hines is married to Plaintiff, Samantha Hines (collectively, “Plaintiffs”).

4. Defendant, The Pros Entertainment Services Inc., (“Defendant” or “The Pros”) is a Pennsylvania corporation that provides professional wedding services such as photography. Defendant claims to be the first photography company to give the negatives and copyrights of photographs to the brides. Defendant’s principle place of business is 1800 Byberry Road, Suite 1401, Huntingdon Valley, PA 19006.

III. JURISDICTION

5. This Court has jurisdiction over Plaintiff Mrs. Hines’s copyright infringement claim pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has supplemental jurisdiction over Plaintiffs’ other claims pursuant to 28 U.S.C. § 1367.

7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c) and §1400(a).

IV. FACTS COMMON TO ALL COUNTS

8. On or around December 31, 2013, Mrs. Hines made a deposit with The Pros for wedding photography services.

9. On June 9, 2014, prior to the services being rendered, Mrs. Hines received an email from Wedding Advisor, Kym Smith (“Ms. Smith”), stating that it was “time to cross our t’s and dot our i’s.” In the email, Ms. Smith wrote “Your wedding photos may also be selected as a ‘Photo of the Week’ or a featured Wedding of the Month....”

10. The same day, Mrs. Hines replied, “This looks great except I would like to opt out having any of my wedding photos used for any promotional use or usage outside of my private

collection for my groom and I. We are private people and would not like any of our photos displayed to strangers.”

11. The following day, on or around June 10, 2014, Ms. Smith agreed and informed Mrs. Hines that The Pros would keep her photographs private and would not use them for promotional purposes.

12. On or around July 12, 2014, the day of Plaintiffs’ wedding, Defendant performed the photography services that Plaintiffs had requested and paid for in full.

13. Mrs. Hines again requested that her photographs remain private on or around July 30, 2014. In response, Ms. Smith reassured Mrs. Hines that the photographs would be private and not used for promotional purposes. Ms. Smith provided Mrs. Hines with a password so she could access her photographs online to preserve their confidentiality.

14. In or around June 2015, Plaintiffs saw one of Defendant’s wedding brochures that had Plaintiffs’ wedding photograph on the cover, despite the fact that Plaintiffs had been assured that their photographs would remain private and would not be used for promotional purposes.

15. Defendant knew Plaintiffs owned the copyright of the photographs as Defendant’s own website boasts: “In 1991, we began offering photography as the first company to give the negatives and copyrights to our brides.” (emphasis added).

16. After discovering this infringement, Mrs. Hines registered her photographs with the United States Copyright Office on or around July 1, 2015.

V. CAUSES OF ACTION

COUNT I

COPYRIGHT INFRINGEMENT (17 U.S.C. § 501)

Mrs. Hines against Defendant

17. This paragraph reincorporates paragraphs 1-16 of this Complaint as though more fully set forth herein.

18. Mrs. Hines registered her photograph with the United States Copyright Office on or around July 1, 2015.

19. Defendant violated the exclusive rights of Mrs. Hines as the copyright owner by publishing Mrs. Hines's photograph on the promotional brochure.

20. Defendant's acts of infringement were willful, intentional, and purposeful, in blatant disregard of Mrs. Hines's rights.

21. Mrs. Hines is entitled to Defendant's profits attributable to the infringement pursuant to 17 U.S.C. § 504(b).

22. **WHEREFORE**, Mrs. Hines is entitled to actual damages and profits or statutory damages, as well as attorneys' fees and costs pursuant to 17 U.S.C. § 505, under Count I of this Complaint.

COUNT II

INVASION OF PRIVACY – Misappropriation of Likeness

Mr. and Mrs. Hines against Defendant

23. This paragraph reincorporates paragraphs 1-22 of this Complaint as though more fully set forth herein.

24. Defendant appropriated to its use and benefit Plaintiffs' likenesses without their consent or permission.

25. Defendant deliberately used Plaintiffs' likenesses to promote its company and for its own financial interest, knowing that it did not have the permission or consent to do so.

26. Defendant misappropriation of Plaintiffs' likenesses was not for a newsworthy purpose.

27. Defendant derived or intended to derive financial advantage or benefit from the unauthorized use of Plaintiffs' likenesses.

28. Plaintiffs seeks damages for all injuries, damages and losses resulting from Defendant's misappropriation of their likeness and invasion of privacy including the fair market value for the use of their likeness and for emotional, pain, suffering and humiliation.

29. Plaintiffs also seeks injunctive relief in the form of an order requiring Defendant to cease and desist from using Plaintiffs' likenesses on any advertising or promotional material in connection with any of its products.

30. **WHEREFORE**, Plaintiffs demand injunctive relief and damages against the Defendant in an amount to be terminated at trial, together with interest, punitive damages, an award of attorneys' fees, and such other relief as this Court deems just and necessary.

COUNT III

MISAPPROPRIATION OF RIGHT OF PUBLICITY

Mr. and Mrs. Hines against Defendant

31. This paragraph reincorporates paragraphs 1-30 of this Complaint as though more fully set forth herein.

32. By using Plaintiffs' photograph on an advertising brochure, Defendant has used for commercial purposes Plaintiffs' image and identity without Plaintiffs' consent. This use is in violation of Plaintiffs' exclusive right to control the commercial value of their likeness.

33. Plaintiffs seeks damages for all injuries, damages and losses resulting from Defendant's misappropriation of her right of publicity including the fair market value for the use of their likenesses and for emotional, pain, suffering and humiliation.

34. Plaintiffs also seeks injunctive relief in the form of an Order requiring Defendant to cease and desist from using Plaintiffs' likeness on any advertising or promotional material in connection with any of its products.

35. **WHEREFORE**, Plaintiffs demand injunctive relief and damages against the Defendant in an amount to be terminated at trial, together with interest, punitive damages, an award of attorneys' fees, and such other relief as this Court deems just and necessary.

COUNT IV

VIOLATIONS OF THE PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW (73 P.S. §§ 201-1 *et seq.*)

Mrs. Hines against Defendant

36. This paragraph reincorporates paragraphs 1-35 of this Complaint as though more fully set forth herein.

37. Mrs. Hines is a person as defined by 73 P.S. § 201-2(2).

38. Defendant performed unfair or deceptive practices as defined by 73 P.S. §201-2(4)(v), (xiv), and/or (xxi) by representing to Mrs. Hines that her photographs would be private and then proceeding to use Mr. Hines's photograph on a promotional brochure.

39. Mrs. Hines relied on Defendant's representations when she decided to make the final payment and have Defendant perform the contract by photographing her wedding. Mrs.

Hines did not pay Defendant the full amount until Defendant reassured her that her photographs would remain private.

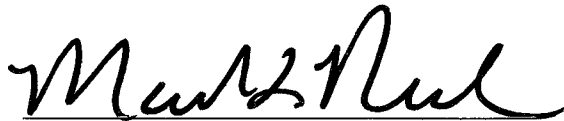
40. **WHEREFORE**, Mrs. Hines is entitled to a judgment against Defendant for three (3) times the actual damages or one hundred dollars (\$100.00), whichever is greater, reasonable attorneys' fees and costs, and any other relief deemed necessary and proper pursuant to 73 P.S. § 201-9.2.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court grant the following relief:

1. Award Mrs. Hines actual damages and profits or statutory damages, as well as attorneys' fees and costs, pursuant to 17 U.S.C. § 505, under Count I of this Complaint;
2. Award Plaintiffs injunctive relief and damages against Defendant in an amount to be terminated at trial, together with interest, punitive damages, an award of attorneys' fees under Count II of this Complaint;
3. Award Plaintiffs injunctive relief and damages against Defendant in an amount to be terminated at trial, together with interest, punitive damages, an award of attorneys' fees under Count III of this Complaint;
4. Award Mrs. Hines judgment against Defendant for three (3) times the actual damages or one hundred dollars (\$100.00), whichever is greater, reasonable attorneys' fees and costs, and any other relief deemed necessary and proper pursuant to 73 P.S. § 201-9.2, under Count IV of this Complaint;
5. Award Plaintiffs pre and post judgment interest; and
6. Any other relief that this Court deems just and proper.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark L. Rhoades". The signature is fluid and cursive, with the first name "Mark" and last name "Rhoades" clearly distinguishable.

Mark L. Rhoades, Esquire (I.D. No. 80641)

RHOADES LLC

One Liberty Place, 36th Floor

1650 Market Street

Philadelphia, PA 19103

215-496-9002 telephone

rhoades@rhoadesllc.com

Counsel for Plaintiffs,
Samantha Hines and Eric Hines

Dated: October 18, 2015